September 20, 2011

The Honorable Robert M. McDowell
Commissioner
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: An Open Letter Concerning TRUE Universal Service Reform

Dear Commissioner McDowell:

As representatives of a cross-section of the telecommunications and broadband services industry, the undersigned companies join in this letter to advance a genuine industry consensus about the principles that should underlie the pending reform of the High-Cost universal service support mechanism.

As an initial matter, the undersigned agree that the Federal Communications Commission should reject the so-called "ABC Plan" for reform advanced by incumbent local exchange carriers ("ILECs"). Proponents of the ABC Plan present it as a "consensus" approach for universal service reform, but it is no such thing. The ABC Plan finds support principally among the ILECs whose interests it is designed to serve. The Plan—which would guarantee ILECs a "right of first refusal" with respect to (or even exclusive access to) $4.2 billion in High-Cost support, relegate competitive providers to a separate and significantly smaller fund, and rig the bidding process by defining the boundaries of supported areas according to ILEC wire centers—would advantage incumbents over competitive providers at every turn. In doing so, the ABC Plan would misallocate USF support, undermine competition, and deprive rural consumers of the high-quality and cost-effective services offered by competitive providers. ILECs thus seek only to replace one broken system with another.

In sharp contrast to the proponents of the ABC Plan, the undersigned believe that the best path to reform puts the interests of consumers ahead of any industry segment, and targets support in high-cost and unserved areas to the most efficient providers. In the interest of building consensus, the below principles reflect a more salient starting point for genuine reform. Specifically, we are in full agreement that the following principles should be taken into account in any High-Cost reform efforts:

1. ***Any High-Cost support mechanism should be competitively and technologically neutral.*** Support should be distributed through a funding mechanism that is open to all providers, regardless of the technology they may use today or in the future. The support mechanism should eliminate the existing systematic biases that were developed to support traditional, wireline voice telephony, and should eschew the creation of new biases (*e.g.,* those that would flow from an ILEC "right of first refusal"). If a hard "cap" on support is adopted, it should apply uniformly to *all* service providers—including ILECs.

2. ***Any extension of High-Cost support to broadband should take into account the competitive environment.*** Broadband services have developed very differently than traditional voice

telephony. Billions of dollars of private capital already have been invested to provide competitive alternatives to ILECs, and to make new and innovative broadband services possible. The legacy framework that has developed to support voice telephony is not appropriate for today's broadband world.

3. ***Any High-Cost support mechanism should award funds to the most cost-effective providers.*** Support should be distributed to the providers that deliver high-quality, cost-efficient service to the American consumers who contribute to the universal service fund. Support should not be distributed under any "quota" system that reserves funding for less cost-efficient providers.

4. ***Any High-Cost support mechanism should facilitate competitive entry.*** ILEC-provided Internet access should not be the only "option." Mechanisms that shield ILECs from competition and guarantee them support regardless of the number of lines they actually serve should be eliminated. High-Cost support should be used to facilitate the development of competitive markets—not to frustrate that development.

5. ***Any High-Cost mechanism should ensure that consumers receive affordable, quality service.*** The Commission should ensure that support is provided at levels sufficient to render service affordable, while at the same time taking measures to encourage fiscal discipline and eliminate waste, fraud, and abuse. Any supported services should ensure that consumers receive quality broadband services, comparable to that currently received by competitive providers in urban areas (*i.e.,* at least 4/1 Mbps service).

6. ***Any High-Cost support mechanism should distribute funds in a targeted fashion to those areas where it is actually needed.*** Support should be distributed on a disaggregated basis that targets support to those areas that truly need it. Support should be awarded on the basis of small, neutrally-defined geographic areas—not based on an ILEC's existing network footprint or service area. The provision of support should be tied to achieving specific quality and coverage requirements. The program should ensure that no American household is left behind.

7. ***Any High-Cost support mechanism should address the specific problem at hand: extending affordable service.*** Unrelated obligations to the U.S. Government (*e.g.,* RUS debt) should play no role in determining which entities receive High-Cost support and in what amounts. Those obligations can be restructured independently if necessary and prudent.

8. ***An "exit strategy" from the existing High-Cost support mechanism should be developed.*** The legacy support and ILEC preferences that exist under the current High-Cost mechanism should not be perpetuated. A suitable transition mechanism from the existing program would be appropriate, however.

Notably, the FCC endorsed many of these principles in its NPRM. Nevertheless, these principles are wholly absent in the universal service reform proposals that the ILECs have recently advanced at the agency—specifically, the ABC Plan and the "RLEC Plan." For that reason, those ILEC proposals do not reflect any "industry consensus." Rather, they reflect the parochial interests of a very narrow industry segment—namely, the ILECs that authored those proposals. In fact, the ILECs propose to allocate at least 93 percent of the CAF for themselves, leaving at most a mere 7 percent of the CAF for wireless carriers, satellite operators, cable providers and competitive local exchange carriers to share. Critically, those proposals were developed without addressing the concerns of competitive telecommunications and broadband providers, including the undersigned companies, or the needs of consumers.

We strongly oppose adoption of the ABC Plan or the RLEC Plan, because neither is consistent with the above principles. Failure to adhere to these principles would delay broadband deployment and harm consumers that want and need broadband service. Following either of these plans would lead to absurd and market-distorting results. For example, consider a wire center area where an ILEC already competes with another ISP, the ILEC provides 1 Mbps service to 35 percent of the area, and the competitive ISP provides 12 Mbps service to a non-overlapping but larger area of the wire center (*e.g.,* 40 percent). In that case, the ABC Plan could subsidize the ILEC's provision of inferior 1 Mbps service to 60 percent of the wire center area for the next decade—even though the competitive ISP already serves more of the wire center than the ILEC and provides faster speeds, and likely is in a better position, as evidenced by its operational history, to quickly extend high-quality broadband service throughout the wire center area.

The High-Cost universal service policymaking process should consider the interests of all stakeholders—including consumers, state governments, and public interest groups. Accordingly, we stand ready to work with all interested parties to develop reform proposals that represent a true reform and a true industry consensus, and that will benefit the American public.

Sincerely,

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